

Docket No.: 21381/0212114-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Klaus Ohm

Application No.: 10/009,971

Confirmation No.: 3314

Filed: October 30, 2001

Art Unit: 2863

For: METHOD OF DETERMINING THE SALT
CONTENT OF LIQUID AND DEVICE FOR
PRACTICING THE METHOD

Examiner: A. S. Bhat

RENEWED PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(b)

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 14, 2009

Dear Sir:

This communication is responsive to a Decision on Petition mailed by the United States Patent and Trademark Office (USPTO) on June 19, 2009. The Applicant herein renews the initial petition under the unintentional provisions of 37 C.F.R. § 1.137(b) to revive the above-identified application. The initial petition stating the delay was unintentional was filed on May 20, 2009 and is attached hereto as Exhibit A. Favorable reconsideration is respectfully requested in light of the following arguments and evidentiary submissions.

The above-identified application became abandoned on December 13, 2003 for failure to properly respond to the Notice of Non-Compliant Amendment mailed on February 5, 2004. A Notice of Abandonment was mailed by the USPTO on September 9, 2004.

Currently, the Petitions Examiner has requested additional information to demonstrate to the satisfaction of the Director that the delay in filing the petition to revive was unintentional.

Accordingly, the proceeding sections address the delays for the relevant time periods:

- (1) the delay in reply that originally resulted in the abandonment; and
- (2) the delay in filing an initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

The proceeding sections show that the delays were unintentional.

I. Period One: Delay in reply that originally resulted in the abandonment.

Karl Hormann was the attorney for the '971 Application when the reply necessary to avoid abandonment was due. Applicant was never informed by Mr. Hormann of the Notice of Non-Compliant Amendment mailed February 5, 2004, nor the Notice of Abandonment mailed September 9, 2004. A letter was sent to Mr. Hormann on August 14, 2009 requesting an explanation as to why the above referenced application became abandoned (attached hereto as Exhibit B). Mr. Hormann replied on September 2, 2009 (attached hereto as Exhibit C). According to Mr. Hormann, no action was taken regarding the Notice of Non-Compliant Amendment dated November 12, 2003 because, to the best of his knowledge and memory, it had not, to date, been received. Mr. Hormann

explained that, although he employs a docketing system in which incoming office actions are dated, entered into a calendar, and attached to their respective prosecution files, his file for the '971 Application currently contains no actions, such as a Notice of Non-Compliant Amendment or a Notice of Abandonment, from the USPTO.

In response to Applicant's request for a status update in April 2005, Mr. Hormann informed Applicant on April 20, 2005 that he would submit a status enquiry to the USPTO. See Declaration of Nicola Cochu, attached hereto as Exhibit D. Although Mr. Hormann did not send a copy of the letter to the Applicant, a copy of the letter to the USPTO dated April 20, 2005 (attached hereto as Exhibit E) was retrieved from PAIR. In the letter, Mr. Hormann stated that he had received no communication from the USPTO other than post card receipts acknowledging receipt of a Response to Office Action and a corresponding Petition for Extension of Time, which were by the USPTO on received September 11, 2003 and September 17, 2003, respectively. Thus, Applicant was unaware of the Notice of Non-Compliant Amendment and the subsequent abandonment mailed on September 9, 2004.

Thus, the delay in reply that originally resulted in abandonment resulted from a failure to file a response to the Notice of Non-Compliant of Amendment mailed February 5, 2004 prior to the deadline for response, of which Applicant was unaware.

Accordingly, the delay in reply that originally resulted in the abandonment occurred despite the exercise of due care and diligence on the part of the Applicant, and the entire period of delay that originally resulted in abandonment was unintentional.

II. Period Two: Delay in filing an initial petition pursuant to 37 C.F.R § 1.137 (b) to revive the application.

Applicant became aware of the abandonment of the Application on or about February 26, 2009. See Declaration of Nicola Cochu, attached hereto as Exhibit D.

From the filing of the application, through abandonment until April 21, 2009, Applicant was represented by Karl Hormann. During the time that Applicant was represented by Mr. Hormann, Mr. Hormann filed a response to an Office Action dated March 11, 2003. See Declaration of Nicola Cochu (Exhibit D). Applicant was unaware of both the Notice of Non-Compliant Amendment mailed February 5, 2004 and the Notice of Abandonment mailed September 9, 2004, however, because Mr. Hormann never informed Applicant about these.

In late 2008, Applicant asked current representatives Darby & Darby PC to investigate the '971 application along with several other applications. Applicant did not become aware of the abandonment of the '971 Application until February 26, 2009, when Applicant's current representatives informed Applicant that the application had become abandoned. See Declaration of Nicola Cochu (Exhibit D).

On or around April 21, 2009, Applicant instructed the undersigned to assume representation for the '971 Application and to file a Petition to Revive. On May 19, 2009, Applicant's current representatives, Darby & Darby PC, promptly and diligently filed a statement under 37 CFR 3.73 (b) showing assignee ownership together with a Power of Attorney (both attached hereto as Exhibit

F), which was accepted on May 27, 2009 (acknowledgment attached hereto as Exhibit G). The initial petition to revive along with a petition fee transmittal and a response to the Notice of Non-Compliant Amendment were filed on May 20, 2009. Applicant's current representatives have thus been working diligently to revive this application.

Thus, the delay in discovering the abandonment led to the delay in filing the initial petition to revive.

Accordingly, the delay in filing the initial petition to revive occurred despite the exercise of due care and diligence on the part of the Applicant, and the entire period of delay in filing the initial petition to revive was unintentional. Applicant's current representatives have been working diligently to revive this application.

Applicants hereby petition to revive this application. The entire delay in filing the required reply from the date for the required reply until the filing of a grantable petition under 37 C.F.R § 1.137(b) was unintentional.

Application No. 10/009,971
Petition dated September 14, 2009
Renewed Petition to Revive

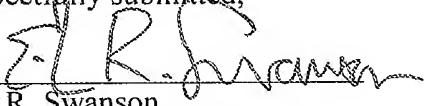
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REMARKS

This renewed petition is filed together with a one-month extension of time. Should any additional fees be necessary with the filing of this petition, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-0100 for any such fees, and Applicants hereby petition for any necessary extension of time.

Dated: September 14, 2009

Respectfully submitted,

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